

**ASSEMBLY BILL**

**No. 782**

**Introduced by Assembly Member Kehoe**

February 20, 2003

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An act to repeal and add Section 71639.1 of the Government Code, relating to trial court employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 782, as introduced, Kehoe. Trial court employees: employment relations.

Existing law prescribes procedures to enforce agreements and to obtain relief for violations of existing provisions of law relating to employment relations between trial courts and recognized employee organizations.

This bill would delete those provisions and instead would grant to the Public Employment Relations Board authority to process claims involving violations of statutes or rules relating to employment relations between trial courts and recognized employee organizations according to provisions of existing law.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 71639.1 of the Government Code is
- 2 repealed.
- 3 ~~71639.1. (a) Each trial court shall adopt a procedure to be~~
- 4 ~~used as a preliminary step before petitioning the superior court for~~
- 5 ~~relief pursuant to subdivision (c) or (d). The procedure may be~~

1 mediation, arbitration, or a procedure before an administrative  
2 tribunal, such as the procedure established pursuant to Sections  
3 71653 and 71654 for review of the decision of the hearing officer  
4 in evidentiary due process hearings. The establishment of the  
5 procedure shall be subject to the obligation to meet and confer in  
6 good faith. However, nothing in this section shall prohibit a party  
7 from seeking provisional relief, such as a stay, in any case in which  
8 provisional relief would otherwise be appropriate.

9 (b) In a trial court with 10 or more judges, if the trial court and  
10 a recognized employee organization reach an impasse regarding  
11 development of a procedure required pursuant to subdivision (a);  
12 the trial court shall adopt, on or before March 1, 2003, either  
13 nonbinding arbitration or a proceeding before the administrative  
14 tribunal, such as the procedure established pursuant to Sections  
15 71653 and 71654, for review of the decision of the hearing officer  
16 in evidentiary due process or hearings.

17 (c) Notwithstanding Sections 1085 and 1103 of the Code of  
18 Civil Procedure requiring the issuance of a writ to an inferior  
19 tribunal, and except as required pursuant to Section 5 of Article VI  
20 of the California Constitution, any agreements reached pursuant  
21 to negotiations held pursuant to this article are binding on the  
22 parties and may be enforced by petitioning the superior court for  
23 relief pursuant to Section 1085 or 1103 of the Code of Civil  
24 Procedure.

25 (d) Notwithstanding Sections 1085 and 1103 of the Code of  
26 Civil Procedure requiring the issuance of a writ to an inferior  
27 tribunal, if a trial court, a trial court employee, or an employee  
28 organization believes there has been a violation of this article, that  
29 party may petition the superior court for relief.

30 (e) The Judicial Council shall adopt rules of court to implement  
31 this hearing and appeal process. The rules of court shall provide  
32 a mechanism for the establishment of a panel of court of appeal  
33 justices who shall be qualified to hear these matters, as specified  
34 in the rules of court, from which a single justice shall be assigned  
35 to hear the matter in the superior court. The rules of court shall  
36 provide that these matters shall be heard in the superior court and  
37 the court of appeal on an expedited basis, and to the extent  
38 permitted by law or rule of court, shall provide that any justice  
39 assigned to hear the matter in the superior court shall not be from  
40 the court of appeal district in which the action is filed, and shall

1 ~~provide that appeals in these matters shall be heard in the court of~~  
2 ~~appeal district where the matter was filed.~~

3 ~~(f) A complete alternative to the procedure outlined in~~  
4 ~~subdivisions (c), (d), and (e) may be provided for by mutual~~  
5 ~~agreement between a trial court and representatives of recognized~~  
6 ~~employee organizations.~~

7 SEC. 2. Section 71639.1 is added to the Government Code, to  
8 read:

9 71639.1. (a) As used in this section, “board” means the  
10 Public Employment Relations Board established pursuant to  
11 Section 3541.

12 (b) The powers and duties of the board described in Section  
13 3541.3 shall apply, as appropriate, to this article and shall include  
14 the authority as set forth in subdivision (c).

15 (c) Any complaint alleging any violation of this article or of  
16 any rules and regulations adopted by a trial court pursuant to  
17 Section 71636 shall be processed as an unfair practice charge by  
18 the board. The initial determination as to whether the charge of  
19 unfair practice is justified and, if so, the appropriate remedy  
20 necessary to effectuate the purposes of this article, shall be a matter  
21 within the exclusive jurisdiction of the board. The board shall  
22 apply and interpret unfair labor practices consistent with existing  
23 judicial interpretations of this article and Section 71639.3.

24 (d) This section does not apply to employees designated as  
25 management employees under Section 71637.1.

26 (e) The board may not find it an unfair practice for an employee  
27 organization to violate a rule or regulation adopted by a trial court  
28 if that rule or regulation is itself in violation of this article.